THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8992 of 1999

Dated:29.11.2006

Between
1.B.Yapa Reddy and others.

.....Petitioners

and

1.The Govt of AP rep., by its
Secretary, Irrigation & CAD Dept.,
Secretariat, Hyderabad
and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8992 of 1999

ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the respondents in not passing any award and in not paying any compensation to the petitioners as arbitrary, illegal and violative of Article 14 of the Constitution of India and contrary to the provisions of the Land Acquisition Act and consequently to direct the respondents to pay compensation including that of solatium, interest etc for the lands acquired through notification *vide* G.O.Rt.No.344 dated 30.04.1991 on the file of the 1st respondent.

It appears that the petitioners and their forefathers are in possession and enjoyment of dry land situated in S.No.401/1 in an extent of 5.96 cents, S.No.401/3 in an extent of Ac.0.84 cents,

S.No.401/4 in an extent of Ac0.39 cents and S.No.401/5 in an extent of Ac.1.44 cents. As early as on 16.5.1991, the 1st respondent issued notification under Section 4 (1) of the Land Acquisition Act (for short 'the Act'), which was published in the Gazette, proposing to acquire the extents of the petitioners as well as others mentioned therein. While issuing the said notification, urgency clause was also invoked under Section 17 of the Act and the enquiry under Section 5-A of the Act was dispensed with and possession was also taken for the purpose of formation of a new tank near Yagappareddy Kandriga across Pullutlavagu. The petitioners are illiterates and there is no source of livelihood for them. After taking possession of the land, a tank was formed, but so far no award has been passed, even though 8 years time has lapsed. As per Section 11-A of the Act, the authorities have to pass an award within a period of 2 years from the date of publication of declaration and as the award is not passed till today, the entire proceedings for

acquisition were lapsed. As such, the action of the respondents is liable to be declared as illegal.

A detailed counter has been filed by the respondents, wherein, it is not denied that a notification under Section 4 (1) of the Act was published and the land acquisition proceedings were initiated. It is stated that existing pattaholders in the foreshore of the proposed tank are said to have given their consent to forego their right of pattas to the Government in the interest of the scheme, hence no provision for land acquisition is provided in the estimates. Further, it is stated that since the petitioners have given their consent, they are not entitled to any compensation. However, it is admitted that the file in which the consent of the petitioners obtained was destroyed after 10 years. Taking advantage of it, the petitioners made a representation through 'Praja Sadassu' held on 22.9.1988 at Ramachandrapuram. Basing on that, without verifying the previous records and also without knowledge of the consent letters given by the pattadars, the Mandal Revenue Officer,

Ramachandrapuram has initiated land acquisition proceedings and Section 4 (1) notification was issued and the same was published in A.P. Gazette on 15.5.1991. Subsequently, at the time of award enquiry, the entire back record was verified and found that the consent was given to the Department for their benefit only since they are also owning other lands apart from this land. An endorsement was issued by the District Revenue Officer, Chittoor under the orders of Joint Collector, Chittoor stating that " the land holder of Yagappa Reddy Khandriga Village gifted their lands to the Irrigation department for construction of the Pullutlavagu Cheruvu. Hence, the requisition department has not placed any funds for acquisition of the land. Therefore, the question of payment of land acquisition compensation to the land holders does not arise." It is further stated that though this position was disclosed to the petitioners in the year 1994, they have filed the present writ petition after lapse of 5 years. In this case, the decision to acquire was taken in the year 1971 (27-2-

1971), possession was taken on 19.5.1976 and tank was completed in March, 1978. Mere issuance of a notification under Section 4 (1) of the Act does not confer any right on the petitioner to receive compensation.

However, when the learned Government pleader was asked to produce the records relating to the consent letters, he expressed his inability stating that no such records are available as on today. In the counter affidavit, it is stated that since more than 10 years have been elapsed after obtaining the consent letters, the record was destroyed. Further, it is interesting to notice that the respondents have also stated that after issuance of notification under Section 4 (1) of the Act, record was verified and thereafter, found that the petitioners have given their consent; therefore, no further action was taken. The said stand of the respondents is inconsistent. When the authorities have verified the records after the notification under Section 4 (1) of the Act was issued and found that the petitioners gave their consent letters and,

therefore no action was taken, they ought to have taken care for preserving those records. This shows that either the respondents are trying to suppress the information or there are no records to show that the petitioners have given their consent. The notification under Section 4 (1) of the Act was issued on 16.5.1991. The letter dated 3.8. 2003 addressed to the Collector, Chittoor District by the Revenue Divisional officer, Chittoor shows that the file bearing D.Dis.6006/66 was destroyed long back due to efflux of time. If this is so, how the matter was verified and found that the petitioners gave their consent is not known. The denial of compensation seems to be on the basis of some internal correspondence between the Officers of the Revenue Department, but not on the basis of any consent letters given by the petitioners. Even the internal correspondence does not indicate the consent of individual members at all. Be that as it may, after all, the petitioners are asking for compensation of their own lands, which fact, is not in dispute. Therefore, I am of the view that the

petitioners are entitled for the relief as sought for in the writ petition.

Accordingly, writ petition is allowed. No costs.

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29-11-2006

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